

REMARKS

Reconsideration of this application as amended is requested.

The drawings have been amended by the submission of replacement sheets Fig. 2 (original), Fig. 2 (new) and Fig. 3 (new). The new Fig. 2 is a cross-sectional view showing the physical arrangement of the reversible electric motor **27** and the batteries **26**. The new Fig. 3 is a circuit diagram showing the reversible electric motor **27** connected to the batteries **26** through the switch **21**. No new matter has been introduced in either Fig. 2 or Fig. 3. Fig. 1 remains unchanged from the original submission.

The specification has been amended by the submission of a substitute specification, which addresses the objection set forth in item 2 of the Office Action. The specification has also been amended to include descriptions of new Fig. 2 and new Fig. 3 and to incorporate reference numbers for the reversible electric motor **27** and the batteries **26**. The substitute specification also corrects two erroneous reference numbers (paragraph 0017, line 19, and paragraph 0019, line 2) and provides a missing reference number (paragraph 0024, line 17). No new matter has been introduced.

Claims 3 and 4 have been amended to address the claim rejections set forth in items 3 through 7 of the Office Action.

With respect to the claim rejections pursuant to 35 USC §103(a), as set forth in items 9 through 18 of the Office Action, the Applicant offers the following arguments.

The Office Action fails to establish a *prima facie* basis for an obviousness rejection of DeVenezia claim 1 based on Jacinto et al. (U.S. Patent No. 5,152,495) in view of Doreste (U.S. Patent No. 6,267,127). These prior art references when combined do not teach or suggest all of the limitations of DeVenezia claim 1.

A principal advantage of the DeVenezia invention is its ability to employ the motor-driven auger not only to drive the beach umbrella into the ground, but also to extract it from the ground. This ability is enabled by the reversible electric motor **27** and the switch **21** controlling the direction and speed of the motor's rotation, which is in turn coordinated with the orientation of the helical flighting **25** on the auger **17**. As is explained in paragraphs 0008, 0018, and 0022-0024 of the Specification, the combination of these three critical elements – i.e., the reversible electric motor **27**, the switch **21** controlling motor direction and speed, and the orientation of the helical flighting **25** – makes the DeVenezia beach umbrella not only self-anchoring, but also self-extracting. The latter is not a feature shared by Jacinto et al.

The disclosure of Jacinto et al. contains no teaching or suggestion that the electric motor member **80** is reversible or that the rotational force imparted by the motor to the helical assembly **40** is capable of backing it out of the ground as well as driving it into the ground. In fact, the Jacinto disclosure speaks only to the operation of driving the helical assembly **40** into the ground (column 3, lines 20-22). Jacinto's claims 5, 7, and 10, describe an "electric motor means for imparting said rotational force," referring to claim 1, which states that the "helical assembly is driven into the ground" by the aforesaid rotational force.

The Jacinto specification does not describe the electric motor member **80** as reversible, nor does it describe the switch member **100** as capable of reversing the direction of the motor (column 3, lines 25-32). Quite to the contrary, Fig. 4 depicts the electric motor member **80** as having a unidirectional rotation, and it shows a single pole switch **100**, which cannot reverse the direction of the current driving the electric motor.

Therefore, there is absolutely no indication or suggestion that the switch **100** provides a means by which “the direction and speed of the motor may be controlled,” as is asserted in item 9 of the Office Action.

Nor would it be obvious to one of ordinary skill in the art to simply modify Jacinto et al. by making the motor and switching mechanisms reversible. Unlike the auger **17** in DeVenezia, the helical assembly **40** in Jacinto is driven by a long inner shaft **35**, which is coaxially disposed within an outer tubular member **20** (column 2, lines 24-30). Inherent in the Jacinto configuration is the risk that sand may enter the interior of the outer tubular member **20** (column 2, lines 64-68, column 3, line 1-11). Reversing the direction of rotation of the helical assembly **40** would have the effect of pushing sand upward toward the angle openings **62** in the outer tubular member **20**. Therefore, introducing a reversible rotation into the Jacinto device would impair the efficiency of its operation, make it less satisfactory for its intended purpose, and change its principle of operation in a detrimental way.

All of that being said, it is really superfluous to consider whether Jacinto et al. may be combined with Doreste to provide the teaching of an axial lumen. Nevertheless, it bears noting that the axial lumen in Doreste functions – through the downward force of a hammer **40** within the lumen on an anvil **60** in the pole standard – to drive the anchor end **54** of the pole standard into the ground using an axial force (column 2, lines 29-35, 61-67, column 3, lines 1-6, column 4, lines 22-34, lines 59-67, column 5, lines 1-13, and claim 1). In Jacinto et al., on the other hand, the umbrella is driven into the ground using a rotational force. Since Jacinto and Doreste involve completely different principles of operation, combining their teachings is, at best, problematic.

In rejecting DeVenezia dependent claims 2-4, item 10 of the Office Action proposes to combine the teachings of Jacinto in view of Doreste with Adams et al. (U.S. Patent No. 3,961,671), in order to supply the elements of a handle and a positive action switch. Of course, if Jacinto in view of Doreste does not render DeVenezia's independent claim 1 obvious, then it doesn't matter whether Adams provides the additional limitations found in DeVenezia's dependent claims 2-4. Nonetheless, it should be noted that Adams et al. discloses a method for driving "medium duty earth anchors" into the ground to anchor large structures, principally mobile homes (column 1, lines 5-12).

The equipment that Adams et al. describes for performing this function is not a device designed to anchor itself in the ground. Rather, Adams teaches the use of a massive drive tool, powered by a ¼ horsepower AC electric motor, to insert a 54" anchor rod into the earth. To protect the drive tool from burning out, the Adams disclosure emphasizes the critical importance of using an induction motor, which is inherently incapable of being driven by DC current (column 5, lines 9-35). Although the drive tool described in Adams does feature a spring-loaded toggle switch 57 and handles 47, the operation of the massive drive tool requires two men (column 4, lines 17-30). The anchor rod is driven 4 feet down into the earth in about 4 minutes (column 4, lines 39-41). Therefore, comparing the powerful Adams drive tool with a self-anchoring beach umbrella is like comparing a howitzer with a popgun. The sheer disparity of structure and function of the drive tool described in Adams et al. weighs decisively against combining its teachings with that of Jacinto et al. and Doreste.

Similarly, there is an enormous disparity between the structure and function of a portable beach umbrella and that of the bulky switching device described in Mattson (U.S. Patent No. 4,528,544), which the Office Action's items 11 cites as grounds for rejection of DeVenezia dependent claim 5. Again, if DeVenezia independent claim 1 stands, it doesn't matter if Mattson teaches the additional limitation of a switch controlling motor speed and direction. But still it bears noting that Mattson discloses a large heavy switching mechanism designed for controlling high speed metalworking machinery (column 1, lines 11-19). Attaching Mattson's bulky switch to the pole of a beach umbrella would render it unable to stand erect in sand. One cannot combine references when the result is to render the primary reference inoperable.

Office Action items 12-14 reject DeVenezia dependent claim 6 with reference to the alleged teaching of Adams et al. of a detachably coupled auger. As discussed earlier, the massive and powerful drive tool described in Adams is totally incongruous as applied to self-anchoring beach umbrellas. While it is true that the Adams anchor 3 is detachable from the driver 1, that is because the anchor 3 is designed to perform its function separate and apart from the driver 1. As stated earlier, Adams et al. does not describe a self-anchoring device comparable in any way to self-anchoring beach umbrellas. Rather, Adams describes a powerful AC-powered drive tool designed to bury a 54" anchor to a depth of 4 feet in the ground.

After the Adams anchor 3 is buried, it must be detached from the driver 1 in order to perform its function. This is dissimilar both structurally and functionally to the detachable interchangeable auger 17 taught by DeVenezia claim 6, which must remain attached to the motor element 16 after it is driven into the ground. There is absolutely no

teaching or suggestion in Adams et al. that the anchor 3 is detachably interchangeable with a different type anchor to accommodate different ground conditions, as is the case with the detachable interchangeable auger 17 described in DeVenezia claim 6.

It's also difficult to discern the relevance of Camponar (U.S. Patent No. 2,628,797), which serves as the basis for rejecting DeVenezia's dependent claims 7 and 8 in Office Action items 15-18. Though the Office Action contends that Camponar furnishes the added limitation of a joint means for tilting the beach umbrella canopy, nothing of the sort is explicitly described in Camponar. At best, Fig. 3 shows a beach umbrella with its canopy tilted at an oblique angle. But there is no reference number designating a tiltable joint, nor is there any recognizable symbol in the drawing signifying such a joint.

On the basis of the foregoing arguments, the Applicant respectfully requests that the preliminary rejection of claims 1-8 on the grounds of obviousness be reconsidered.

On the basis of the above Amendment and Remarks, reconsideration and allowance of this application is deemed warranted.

No additional fee is due.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'T. Germinario', written over a horizontal line.

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AUGER-ANCHORED BEACH UMBRELLA
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BACKGROUND OF THE INVENTION

[0001] Beach umbrellas are used to create an area shaded from the sunlight beneath the umbrella canopy. They are particularly useful for bathers at a beach or swimming pool, where there is generally a lack of trees or roofed structures to provide shade. Because a bather's skin is largely exposed, there is a greater need to provide protection from harmful ultraviolet rays, which may cause sunburn or melanomas. The shade and shelter provided by a beach umbrella is also useful in protecting a bather's valuables and shielding perishable items from direct sunlight.

[0002] The principal problem with beach umbrellas has been finding a means of securely anchoring them in the ground. Lack of secure anchoring places a limit on the size of the umbrella canopy that can practically be utilized, since larger canopies are heavier and more vulnerable to gusts of wind. Lack of secure anchoring also makes it impractical to utilize mechanisms for tilting the umbrella canopy in the direction of the sun so as to maximize the shaded area.

[0003] Previous attempts to address this problem have utilized anchoring devices which must be manually inserted or buried in the ground. Such devices are disclosed by Beiter, U.S. Patent No. 2,209,504, Pesaturo, U.S. Patent No. 2,759,486, Webb, U.S. Patent No. 4,756,129, Alexander, U.S. Patent No. 4,803,812, Padin, U.S. Patent No. 4,850,564, Robinson, U.S. Patent No. 5,199,361, Buttimore, U.S. Patent No. 5,636,944, Doreste, U.S. Patent No. 6,328,046 B2, Hollenbeck, U.S. Patent No. 6,354,554 B1, and Girard, U.S. Patent No. 6,412,748 B1. However, each of these references suffers from

the disadvantage of depending on the physical strength of the person inserting or burying the umbrella pole in the ground. Frail individuals and children may lack the requisite physical strength to effectively utilize these anchoring devices. Even a robust individual may have difficulty when the ground is hard. Moreover, manual insertion or burial is laborious and time-consuming, and it often does not achieve the depth of ground penetration needed to securely anchor the umbrella.

[0004] For the foregoing reasons, there is a need for a beach umbrella having a motor-driven anchoring device, which will enable any user to securely anchor the umbrella in a variety of terrains.

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SUMMARY OF THE INVENTION

[0005] The present invention is directed to a device that satisfies the need for a beach umbrella having a motor-driven anchoring device. The spreadable canopy is typical in design for umbrella canopies as they are presently known in the art. Due to the improved anchoring afforded by the present invention, however, a canopy larger than those typically found on beach umbrellas may be utilized. The improved anchoring of the present invention also enables the use of a jointed canopy member by which the canopy may be tilted in the direction of the sun so as to maximize the area of shade cast by the canopy.

20 [0006] A self-anchoring beach umbrella having features of the present invention comprises two principal parts. First, it has a canopy member, which consists of an upper tubular element and a lower tubular element. A spreadable canopy is attached to the upper tubular element. Within the lower tubular element of the canopy member is formed an axial lumen.

[0007] The second part of the present invention is a pole member having an upper element formed for insertion into the axial lumen of the canopy member. Within or mounted upon the pole member is a battery chamber containing one or more batteries. The battery chamber has a means for accessing the batteries when they need to be replaced or recharged. The pole member also has a motor element comprising a reversible electric motor, which has a shaft through which a rotary torque is generated when the motor is activated. The shaft is axially disposed on the lower end of the motor. An auger is coupled to the shaft so that it rotates when the motor is activated.

[0008] Since the motor is reversible, it may be activated in the forward or reverse direction. The forward direction of the motor is considered to be clockwise for a right-hand-screw type auger (i.e., one in which the helical flighting wraps around the auger's axis in the clockwise direction), and counterclockwise for a left-hand-screw type auger (i.e., one in which the helical flighting wraps around the auger's axis in the counter-clockwise direction). Conversely, the reverse direction of the motor is considered to be counter-clockwise for a right-hand-screw type auger and clockwise for a left-hand-screw type auger. When the motor is activated in the forward direction, the effect of the auger rotating in the ground will be to lift the soil or sand, thereby excavating a hole into which the umbrella's pole member may be inserted. When the motor is activated in the reverse direction, the effect of the auger rotating in the ground will be to push the excavated soil or sand back down into the hole, thereby causing the pole member to extract itself from the ground.

[0009] The speed and direction of the reversible electric motor is controlled by a switch mounted on the motor element of the pole member. The switch is electrically

connected to the batteries and the motor. Optimally, the switch is located on a handle attached to the motor element of the pole member. The handle enables the user to guide the auger and apply a supplemental force in the direction of the auger's motion. Optionally, a positive action type switch may be utilized, such that the direction of the pressure on the switch controls the direction of the motor, and the amount of pressure on the switch regulates the speed of the motor. Such positive action switches are typically used on hand-held electric power tools.

[0010] In an alternate embodiment, the auger is detachable from the motor shaft so that it may be replaced if damaged. This feature also enables the use of one or more alternate augers designed for different ground conditions.

[0011] Due to its improved anchoring, the present invention may optimally utilize a tilting canopy by means of a joint between the upper and lower tubular elements of the canopy member. Using the joint, the canopy is tilted in the direction of the sun to maximize the area of shade cast by the canopy.

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BRIEF DESCRIPTION OF THE DRAWING

[0012] Fig. 1 is a front view of a self-anchoring beach umbrella embodying features of the present invention.

[0013] Fig. 2 is a cross-sectional view of the battery chamber and the motor element.

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[0014] Fig. 3 is a circuit diagram of the reversible electric motor, the switch and the batteries.

DESCRIPTION OF THE INVENTION

[0015] As shown in Fig. 1, a self-anchoring umbrella embodying the features of the present invention 10 comprises a canopy member 11 and a pole member 12. The canopy member 11 is comprised of an upper tubular element 13 and a lower tubular element 14. The pole member 12 is comprised of an upper element 15, a motor element 16, and an auger 17.

[0016] A spreadable canopy 18 is connected to and supported by the upper tubular element 13 of the canopy member 11. Within the lower tubular element 14 of the canopy member 11 is formed an axial lumen 19. The upper element 15 of the pole member 12 is formed to slide snugly into the axial lumen 19 of lower tubular element 14 of the canopy member 11.

[0017] As shown in Fig. 2, ~~[[The]]~~ the motor element 16 of the pole member 12 comprises a reversible electric motor ~~(not-shown)~~ 27, having on its lower end an axially-disposed shaft 20, which is coupled to the auger 17. Mounted upon the motor element 16 of the pole member 12 is a switch 21. In the preferred embodiment, the switch 21 is mounted on a handle 22 attached to the motor element 16 of the pole member 12. As shown in Fig. 3, ~~[[The]]~~ the switch 21 is electrically connected to the reversible electric motor ~~(not-shown)~~ 27 and to one or more batteries ~~(not-shown)~~ 26 enclosed in a battery chamber 23, which is within or mounted upon the pole member ~~[[17]]~~ 12. Access to the batteries 26 is provided by a means 24 for accessing the battery chamber 23, which access means may be a cap, panel or similar structure which screws or slides into the exposed side of the battery chamber 23.

[0018] In the preferred embodiment, the switch **21** is a positive action switch which is positioned on the handle **22** in such a way that the operator may regulate the direction and speed of the reversible electric motor (~~not shown~~) **27** while using the handle **22** to guide the pole member **12** into the ground. In the neutral position (i.e., no pressure applied) the switch **21** turns the reversible electric motor (~~not shown~~) **27** off. When downward pressure is applied to the switch **21**, the motor (~~not shown~~) **27** is activated in the forward direction, causing the auger **17** to rotate in the direction in which its helical flighting **25** wraps around the axis of the auger. When upward pressure is applied to the switch **21**, the motor (~~not shown~~) **27** is activated in the reverse direction, causing the
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[0019] In an alternate embodiment, the auger **17** is detachably coupled to the shaft **20** of the reversible electric motor **27**, to facilitate replacement of a damaged auger and to enable use of multiple auger configurations designed for different terrains. In another alternate embodiment, a tiltable joint means is provided between the upper tubular element **13** and the lower tubular element **14** of the canopy member **11**, thereby enabling the canopy **18** to be tilted about the axis of the umbrella.

[0020] The design of the canopy **18** and the means of its attachment to the upper tubular element **13** of the canopy member **11** is typical for beach umbrella canopies as they are presently known in the art. The canopy member **11** may be fabricated of a light-weight, durable tubular metal or plastic material of the types presently known in the art.

In the preferred embodiment, the canopy member 11 has a circular cross-section not exceeding six inches in diameter. The upper element 15 of the pole member 12 has a cross-section which fits snugly into the axial lumen 19 of the lower tubular element 14 of the canopy member 11 and may be fabricated of a light-weight, durable metal or plastic material of the types presently known in the art. In the preferred embodiment, the upper element 15 of the pole member 12 has a circular cross-section not exceeding six inches in diameter.

[0021] The motor element 16 of the pole member 12 comprises a reversible electric motor (~~not shown~~) 27 encased in tubular sleeve which may be fabricated of a light-weight, durable metal or plastic material of the types presently known in the art. The reversible electric motor (~~not shown~~) 27 is the type typically used in small power tools, such as hand-held drills. The motor (~~not shown~~) 27 is electrically connected to the batteries 26 in the battery cavity 23 through the switch 21. In the preferred embodiment, the switch 21 is located on the handle 22 which is mounted on the motor element 16 of the pole member 12. The switch and the handle may be fabricated of a light-weight, durable metal or plastic material of the types presently known in the art.

[0022] The auger 17 has a cylindrical axis about which is wrapped helical flighting 25. The diameter of the auger 17 and the width and pitch of the helical flighting 25 are determined by the type of terrain in which the beach umbrella 10 will be used. The top end of the auger 17 is designed to be coupled to the shaft 20 of the reversible electric motor (~~not shown~~) 27. In the preferred embodiment, the auger 17 is fabricated of a steel alloy suitable for prolonged exposure to a salt-water environment, and the bottom end of the auger 17 is conical in shape to facilitate insertion into the ground.

[0023] The operator of the invention 10 finds a desired location and takes hold of the pole member 12 by the handle 22, pointing the bottom end of the auger 17 into the ground. The operator then activates the switch 21 in the forward direction, causing the auger to bore into the ground. In the preferred embodiment, the operator controls the speed of the auger 17 by the amount of pressure applied to the switch 21. Using the handle 22, the operator applies a downward pressure and guides the pole member 12 as the auger 17 bores down into the ground to a sufficient depth to secure the pole member 12. The operator then lifts the canopy member 11 and inserts it over the upper element 15 of the pole member 17 in such a way as the upper element 15 slides into the axial lumen 19 formed within the lower tubular element 14 of the canopy member 11. At this juncture, the beach umbrella 10 is firmly anchored in the ground and the canopy 18 may be opened. If the optional tiltable joint is incorporated in the canopy member 11, the canopy 18 may also be tilted so as to maximize the area of shade cast by the canopy 18.

[0024] When the operator is ready to depart, the canopy 18 is closed and the canopy member 11 is lifted up so as to separate it from the pole member 12. The operator takes hold of the pole member 12 by the handle 22 and activates the switch 21 in the reverse direction, causing the auger 17 to disengage from the ground. Using the handle 22, the operator applies an upward pressure and guides the pole member 12 as it emerges from the ground. Once the pole member 12 has been removed from the ground and the auger 17 cleared of sand or soil, the operator may elect to either transport and store the canopy member 11 and pole member 12 separately or reassemble them so as to transport and store the beach umbrella 10 as one unit.

[0025] The present invention is, therefore, well adapted to satisfy the need for a beach umbrella which can be securely anchored in the ground without requiring significant physical strength and exertion on the part of the user. The present invention, moreover, allows a significantly larger and heavier canopy to be deployed and makes it
5 practicable to utilize a tiltable canopy.

[0026] While the present invention has been described in some detail with reference to certain currently preferred embodiments, other embodiments are feasible and will readily suggest themselves to those skilled in the art. Therefore, the spirit and scope of the appended claims is not limited to the description of the preferred embodiments
10 contained herein.

What is claimed is:

1. A self-anchoring beach umbrella comprising:

(a) a canopy member having an upper tubular element, to which a spreadable canopy is attached, and a lower tubular element, within which is formed an axial lumen;

(b) a pole member having: (i) an upper element, formed for insertion into the axial lumen of the canopy member; (ii) a motor element, comprising a reversible electric motor, having on its lower end an axially-disposed shaft through which a rotary torque is generated when the motor is activated; and (iii) an auger coupled to the shaft of the reversible electric motor such that the auger rotates in a forward or reverse direction when the motor is activated;

(c) a battery chamber located in or mounted upon the pole member, said battery chamber having within it one or more batteries and having a means for accessing said batteries so that they may be removed and replaced or recharged;

(d) a switch mounted on the motor element of the pole member and electrically connected to the batteries and the reversible electric motor, whereby the motor may be activated and the direction and speed of the motor may be controlled;

2. The self-anchoring beach umbrella according to claim 1, further comprising a handle attached to the motor element of the pole member by means of which either: (i) a downward force may be applied while the auger is rotating in the

forward direction, thus causing the auger to bore into the ground and anchor the pole member; or (ii) an upward force may be applied while the auger is rotating in the reverse direction, thus causing the auger to disengage from the ground and free the pole member.

- 5 3. The self-anchoring umbrella according to claim [[1]] 2, wherein the switch is positioned on the handle so that the switch may be activated ~~by the operator~~ while ~~he/she is applying~~ a downward or upward force is applied to the handle.
4. The self-anchoring umbrella according to claim 2, wherein the switch is a positive action switch, such that the switch is not activated unless a continuous pressure is
10 applied thereto ~~by the operator~~.
5. The self-anchoring umbrella according to claim 3, wherein: (i) the switch regulates the direction of the motor by the direction of the pressure applied to the switch; and (ii) the switch regulates the speed of the motor by the amount of pressure applied to the switch.
- 15 6. The self-anchoring umbrella according to any one of claims 1-5, wherein the auger is detachably coupled to the shaft of the reversible electric motor and replaceable by another auger, such that: (i) a damaged auger may be replaced; or (ii) one or more alternate augers designed for different ground conditions may be utilized.
- 20 7. The self-anchoring umbrella according to any one of claims 1-5, further comprising a joint means for tilting the upper tubular element of the canopy member about an axis with respect to the lower tubular element of the canopy member, which joint means is disposed between the upper tubular element of the

canopy member and the lower tubular element of the canopy member, such that the canopy may be tilted in the direction of the sun so as to maximize the area of shade cast by the umbrella's canopy.

8. The self-anchoring umbrella according to claim 6, further comprising a joint
5 means for tilting the upper tubular element of the canopy member about an axis with respect to the lower tubular element of the canopy member, which joint means is disposed between the upper tubular element of the canopy member and the lower tubular element of the canopy member, such that the canopy may be tilted in the direction of the sun so as to maximize the area of shade cast by the
10 umbrella's canopy.

ABSTRACT OF THE DISCLOSURE

An auger-anchored beach umbrella has a canopy member for supporting the canopy and a pole member for anchoring the umbrella in the ground. The canopy member has a lower tubular element within which is formed an axial lumen. The pole member has an upper element which slides snugly into the axial lumen of the canopy member. The pole member has a motor element, within which is enclosed a reversible electric motor. Coupled to the motor's shaft is an auger. The motor is electrically connected to one or more batteries and to a switch. The user inserts the pole member into the ground by activating the switch in the forward direction, thereby causing the auger to bore into the ground. In the preferred embodiment, the user grasps a handle attached to the upper element to guide the pole member into the ground and to exert a supplemental downward force on it. After the auger is firmly anchored in the ground, the canopy member is mounted on the pole member by sliding the axial lumen over the upper element of the pole member. When the beach umbrella is removed from the ground, the canopy member is removed from the pole member. The user activates the switch in the reverse direction, thereby causing the auger to disengage from the ground. In the preferred embodiment, the user grasps the handle to guide the pole member out of the ground and to exert a supplemental upward force on it.